

## Coast Guard, DOT

## § 52.44

desires to present in support of his case.

### § 52.25 Access to official records.

The applicant shall have access to official records or to any information pertaining to the applicant which is in the custody of the Coast Guard, as provided in 49 CFR part 10. The applicant shall also have access to other Coast Guard records as provided in 49 CFR part 7.

### § 52.26 Withdrawal.

The board may, in its discretion, permit the applicant to withdraw his or her application at any time before a final determination by the Secretary. Any further consideration by the Board of the issues raised in the withdrawn application shall occur only upon the filing of a new application.

## Subpart D—Consideration of Application, Denial of Relief, and Stay of Proceedings

### § 52.31 Consideration of application.

Each application shall be reviewed by the Chairman to determine whether it meets the requirements of § 52.21(c). The Chairman shall decide in appropriate cases whether to grant a hearing or to recommend disposition on the merits without a hearing.

### § 52.32 Denial of relief.

(a) The Chairman may, notwithstanding § 52.64, and without written findings and conclusions, deny in writing all requested relief to an applicant at any time prior to consideration of the applicant's case by a Board if:

(1) The information or evidence submitted by the applicant is insufficient to demonstrate probable substantial error or injustice;

(2) Effective relief cannot be granted by the Board;

(3) The Board does not have jurisdiction to determine the issues presented; or

(4) The application has not been timely filed under § 52.22 and the interest of justice does not require its acceptance.

(b) Denial of relief pursuant to this section is without prejudice to further

consideration by the Board if the applicant requests further consideration and submits evidence in addition to that contained in his or her complete application. A request for further consideration shall be regarded as a new application for purpose of § 52.68.

(c) If relief is denied under this section, the applicant shall be advised of the right to further proceedings.

### § 52.33 Stay of proceedings.

An application to the Board for correction of a military record does not operate as a stay of any proceeding or administrative action taken with respect to or affecting the applicant.

## Subpart E—Hearings

### § 52.41 General provision.

In each case in which the Chairman determines that a hearing is warranted, the applicant will be entitled to be heard orally in person, by counsel, or in person with counsel.

### § 52.42 Notice of hearing.

(a) If the Chairman determines that a hearing is warranted, the Chairman shall notify the applicant that a hearing has been granted.

(b) The date of hearing shall be not less than 21 days from the date of this notification. Written notice stating the date, time and place of the hearing shall be given to the applicant and the Coast Guard.

### § 52.43 Witnesses.

(a) In any case in which the Chairman has granted a hearing, the applicant shall have the right to present witnesses.

(b) It is the responsibility of the applicant to notify witnesses and to ensure their appearance at the date, time and place set for the hearing.

### § 52.44 Expenses.

No expenses of any nature whatsoever incurred by an applicant, his or her counsel, witnesses, or others acting on behalf of the applicant shall be paid by the Government.